1948. File No. Agn. Misc/48

Pt. III

Legal DEPARTMENT

E BRANCH

Examined MKM 2/6/56

Subject:—

Miscellaneous

Agreements of:

[For previous pps. pl. see parts I, II]

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[For subsequent pps. pl. see Pt. IV]

R-27
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File No. Agn. Misc./48

Stl. Sectt. Slip 24 B e.

Part III

33-E

This agreement made at - - - - - - - - - the - - - - day of - - - - - - - - one thousand nine hundred and forty eight BETWEEN Bai - - - - - - - wife/widow of Dundappa Dale, carrying on dairy business at Hubli under the term of Karnatak Goverdhan Sanstha, name and style/Hubli (hereinafter called "The Borrower" which expression shall, unless the context does not so admit be deemed to include her heirs, executors, administrators and assigns) of the one part and the Governor of Bombay (hereinafter called "the Government " which expression shall unless excluded by or repugnant to the context include .is successors in office and assigns) of the other part.

WHEREAS the Borrower has applied to the Director of Animal Husbandry and Veterinary Science, Poona (hereinafter called "the Director") for financial aid of Rs. 5,300/- for purchase of eight buffaloes, milking utensils, construction of a temporary shed for cattle and for the purchase of a buffalo bull for her said dairy at Hubli.

AND WHEREAS the Director has agreed to grant a sum of Rs. 5,300/- to the Borrower on terms and conditions hereinafter contained.

NOW THIS AGREEMENT WITNESSES as follows :-

(1) The Government shall advance to the Borrower a sum of Rs. 5,300/-, out of which (a) a sum of Rs. 300/- shall be considered as a subsidy subject to the provisoes hereinafter contained and (b) a sum of Rs. 5,000/- shall be considered as a loan carrying interest at a rate of 4% per annum.

(2) The Borrower shall spend and utilise the said grant for the purpose of purchase of eight buffaloes, milking utensils, construction of a temporary shed for cattle and purchase of a buffalo bull for her said dairy at Hubli.

(3) The Borrower shall apply the said advance solely fo the purpose for which it is given and not for any other purpose except with the previous consent in writing of the Director.

(4) The Borrower shall r epay to the Dairy Development

officer, Bombay Province, Poona, on behalf of Government the said loan of Rs. 5,000/- within a period of five years from the date hereof by ten equal half yearly instalments of Rupees five hundred (rs. 500/-) each together with interest on the said sum of Rs. 5,000/- or such part thereof as shall not have been paid at the rate of 4 per cent per annum until the whole of the said sum of Rs. 5,000/- with interest shall be fully paid, the first of such instalment being payable on the - - - - day of - - - - - new next and the subsequent instalments on the - - - - day of - - - - - and on the - - - - - day of - - - - - - - in each and every year.

(5) The Borrower shall permit the Director or any officer authorised by him by general or special order in writing or any person or persons authorised by a Government of Bombay, at all reasonable times to inspect the buildings and other structures on the dairy premises and all appliance, furniture, stock and stores and also the buffaloes and the buffiao bull and all other belongings and things connected with the said dairy and all the account books pass books and vouchers relating thereto/and shall grant all reasonable facilities for the purpose.

(6) Provided always and it is hereby agreed that if the Borrower fails to pay any instalment or instalments of Principal and/or interest or contravenes any of the conditions under which the said grant is given, the unpaid instalments or balance of the whole advance including the said sum of Rs. 300/- advanced as ~~subsidy~~ and interest thereon ~~subsidy~~ shall at the option of the Government of Bombay be recoverable summarily as an arrear of Land Revenue under the provisionSof the Bombay Land Revenue Code, 1879 and the rules thereunder.

(7) The Borrower doth hereby assign transfer and assure unto the Government all her undertaking and all her property and assets, present and future particulars of the principal items of which property and assets hereby expressed to be assigned and transferred are set out in the schedule hereunder written, and also including the eight buffaloes and buffalo bull, the milking utensils to be purchased and the shed to be constructed out of the said advance

(hereinafter collectively ~~collecter rely~~ referred to as "the mortgaged property") And all the estate, right, interest claim and demand of the Borrower in to and upon the mortgaged properties. TO HAVE AND TO HOLD the same unto the Government absolutely subject to the proviso for redemption hereinafter contained to the intent that these presents shall be a specific first charge on the mortgaged properties and any other future property and assets of the Borrower for the time being on the said premises and the Borrower shal. not be at liberty to mortgage charge/sell, exchange, pledge or otherwise alinate the said property exception in the ordinary course of her dairy business without the previous written consent of the Director.

(8) If the Borrower shall duly repay the amount of the said loan of Rs. 5,000/- together with the interest thereon on the due dates and in the manner aforesaid, the Government shall upon the request and at the costs, charges and expenses of the Borrower reassign and retransfer the Mortgaged properties into the Borrower or as she may direct.

(9) The cattleshed to be constructed with the loan xxxx amount shall be in accordance with the plans and specifications thereof to be previously approved by the Dairy Development Officer. Government shall have the first refusal as regards the selection and purchase of the progeny born of dairy animals which shall be purchased by the Government at the prevailing market rate. The breeding bull to be purchased with the subsidy and its progeny shall not be sold by the Borrower except with the previous permission of the Dairy Development Officer.

(10) Government shall control the breeding policy of the Borrower at the said dairy and the Borrower shall carry out breeding at the said farm in accordance with such instructions as she may from time to time receive from the the Government.

(11) The Borrower shall maintain a record of breeding, feeding, milk yields and other records connected therewith in respect of the cattle maintained at the said dairy,

in such form as may be prescribed by the Dairy Development Officer and shall submit the records for periodical inspection of the Dairy Development Officer.

(12) The Milk sold by the Borrower shall be pure, genuine and conforming to the standard laid down by Government and the Borrower shall sell the milk at such rate as may be fixed by the Dairy Development Officer.

(13) The breeding bull to be purchased by the Borrower with the subsidy shall be of a type as recommended by the Dairy Development Officer for use in the district.

(14) The Borrower shall make available the services of the bull to the buffaloes of all cultivators of Hubli at such charge or charges as may from time to time be prescribed by the Dairy Development Officer.

(15) The Borrower shall not in any way dispose of the breeding bull and its progeny without the previous written permission of the Dairy Development Officer.

(16) The Borrower shall bear the charges of stamping this Agreement in duplicate.

IN WITNESS WHEREOF N — · D — Wale, Esquire the Manager and the duly constituted attorney of Mrs. D - Wale hath set his hand hereto and the has hereto set his hand and seal of his office for and on behalf of the Governor of Bombay the day and year first above written.

Schedule referred to above.

(List of present assets to be set out here)

Signed, sealed and delivered)
by N. D. Wale,)
Esquire the Manager and the)
duly constituted attorney of)
Mrs. Wale for and)
on behalf of Mrs. D. — ·)
Wale, in the presence of 0

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2.

Signed, sealed and delivered)
by)
)
in the presence of)

1.

2.

Legal Department.

A revised draft Agreement is appended.

2. The Agreement will be chargeable with a stamp duty of Rs. 61-2-0 under article 5(c) read with article 40(b) read with article 15 of the Schedule I to the Indian Stamp Act.

BN 10/8

o/c Offg. Solicitor to Government.

U.R. to A.R.D.D., No. 7598, dated the 11th August 1948.

Kc. 10.8.

10/8

Issued CSP 11/8

Submitted after revise
File in Agreement/48
Mgl
12/8
Solr BN 12/8

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In consideration of the Governor of Bombay agreeing to grant under the scheme sanctioned by Government under G.R. R.D. No. 7592/45, dated the 27th March 1948, for grant of compensation in respect of losses suffered by certain persons in the Province of Bombay and in the Deccan States in the recent disturbances, a loan of Rupees

to Mr.

Hindu inhabitant residing at

in the taluka of the District on the terms and conditions stipulated in the Government letter No.

dated which are acceptable to the aforesaid

I, , Hindu Inhabitant hereby declare myself surety for the abovenamed loanee and guarantee that he shall repay the said sum of Rupees together with interest due thereon within the stipulated period which he has agreed to do and in case of his making default therein, I here by bind myself to pay to the Governor of Bombay, hereinafter referred to as "the Government" the said sum of Rupees . together with interest due thereon or such smaller sum as shall be deemed to be sufficient by the Collector of , as necessary to cover any loss or damage which Government may sustain by reason of such default. And I hereby further agree that the Government may without prejudice to any other rights or remedies of Government recover from me the said sum with interest due thereon, as aforesaid as an arrear of land revenue, under the provisions of the Bombay Land Revenue Code, 1879 and I agree that any variation of the terms of which the said loan has been granted to the loanee will not discharge me from my liability to pay the said amount.

Dated this the day of 194

Signature of surety.

Before me

Collector of

Legal Department.

Mr. Tukol's suggestion that the mortgage bond should be expressed to be executed in favour of the Governor of Bombay is quite correct. It will be necessary either to amend the previous bonds under the initials of the mortgagors or to get new bonds executed by them. Provisions of section 175(3) of the Government of India Act, 1935, are mandatory and the non-compliance therewith may result in rendering the mortgage bond invalid and thus jeopardising the security.

2. The words "the Govemment of Bombay" appearing in the draft mortgage bond and the words "Secretary of State for India in Council" in the draft Surety Bond suggested by the Collector of Belgaum should be substituted by the words "the Governor of Bombay".

the Solicitor to Government in L. D.

3. At the request of the Collector of Bombay I had prepared draft Mortgage bond and surety bond for the same purpose copies of which are appended herewith. These draft bonds are more comprehensive. R.D. may consider whether all the Collectors may not be asked by a Circular to adopt the drafts prepared by the Solicitor to Government in L.D.

16/8

Additional Secretary to Government.

U.R. to R.D., No. 7813, dated the 16th August 1948.

Issued
16/8

LDR.
14.

Submitted for signature
MGP
16/8
Solr. RAN. 16/8
Addl Secretary.

Submitted after issue
File in Agr. Misc 148

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17/8
Solr. BN 17/8

Agr. Misc | 48
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An AGREEMENT made the day of One thousand nine hundred and forty eight BETWEEN the Governor of Bombay of the one part And Bagalkot Cement Company Limited a Company registered under the Indian Companies Act VII of 1913 and having its registered office in Bombay (hereinafter called "the Company") of the other part

WHEREAS by the Articles of Association of the Company it was inter alia, provided that the Company shall enter into an Agreement with the Government of Bombay (hereinafter referred to as "the Government") reserving to the Government an option to purchase the cement production of the Company in terms of the draft agreement therein referred to, being this Agreement

AND WHEREAS the Company was registered at Bombay on or about the day of 194

AND WHEREAS by an Agreement dated the day of 1948 and made between the Governor of Bombay of the one part the Company of the second part, Tendulkar Industries Limited of the third part and Dr. A. G. Tendulkar of the fourth part the Government has agreed to guarantee the payment by the Company of a dividend at the rate of 3% per annum on the ordinary shares of the Company for a period of five years from the date of t

first .

first allotment on the terms and conditions therein contained

NOW THESE PRESENTS WITNESS AND IT IS HEREBY AGREED by and between the parties hereto as follows:-

1. In consideration of the premises the Company agrees that for a period of = - - = years from the date on which the Company's factory at Bagalkot goes into production the Government shall have the first option to purchase from the Company for Government's own purposes fifty per cent of the total cement production of the factory of the Company at Bagalkot on the basis of one installed unit of the production capacity of one lac tons of cement per year provided that in the event of the Company installing more than one units Government will be entitled to the fifty per cent cement production of such unit of the production capacity of one lac tons a year calculated on the basis of the average total cement production of all such units at the said factory at Bagalkot during the corresponding year.

2. The price payable by the Government to the Company shall be a concessional price calculated on the basis of the actual cost of such production, including depreciation of machinery plus a return of six per cent on the total subscribed share capital of the Company or at the market rate, whichever is lower, PROVIDED

HOWEVER..

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HOWEVER that the Government shall not be entitled to the aforesaid claim and benefit if the guarantee contained in the Deed of Guarantee dated the day of hereinbefore recited is not continued by the Government for the full period of five years.

3. The Company shall in the beginning of every quarter, namely, the beginning of January, April, July and October of each year, intimate to the Government in writing the estimated quantity of cement that will be available to the Government in such quarter, in terms of clause 1 hereof. The Government shall within thirty days from the receipt of such intimation inform the Company in writing whether the Government desires to exercise its option to purchase the fifty per cent of the cement production of the Bagalkot factory as aforesaid either wholly or in part, and, if so, the quantity required by the Government.

4. If in any quarter the Government has expressed its willingness to purchase any cement from the Company in terms of these presents the Company shall as and when the whole of the required quantity of cement or any lesser quantity, but in no case less than one hundred tons at any one time is ready for delivery, intimate to the Government the quantity ready for delivery and the Government shall within thirty days of the receipt of such intimation arrange to take delivery of the said quantity against payment to the Company of the controlled or market price thereof less the

commissio

commission payable by the Company to its Selling Agents and an amount equivalent to the Railway freight from the Company's factory to the place of destination as may have been included in such controlled price or market price as the case may be.

5. All deliveries under these presents shall be ex-godown Company's factory site and the Government shall be bound to take delivery of the cement as may be ready for delivery within the time aforesaid and in the event of Government's failure so to do, the Government shall pay to the Company in addition to the price aforesaid godown rent at the rate of Rs.- - - - per ton of cement and if such delivery is not taken within 45 days from the receipt of intimation that the goods are ready for delivery the Company shall be at liberty to dispose of the said cement as if such cement is not required by the Government and in such event the Company shall be entitled to receive from the Government the Godown rent at the rate aforesaid for the excess period over thirty days during which the cement remained in the Company's godown subject always to the maximum of fifteen days' rent.

6. Within thirty days after the 31st day of December in each year all accounts between the Government and the Company as to the net concessional price payable by the Government to the Company for the cement purchased by the Government under these presents shall be made up and the balance if any payable by the Company to the Government shall be paid to the Government within

thirty ..

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thirty days from the date of such settlement of the accounts and the same shall be recoverable from the Company as arrears of land revenue. without prejudice to the Govt's other remedies.

7. All questions or differences whatsoever which may at any time hereafter arise between the parties hereto or their respective representatives touching these presents or the construction hereof or as to the rights duties or obligations of any person hereunder or as to any other matter in anywise out of or connected with the subject matter of these presents the same shall be referred to the arbitration of two persons one to be appointed by each party hereto and this clause shall be deemed to be an agreement for submission to arbitration within the meaning of the ~~Indian~~ Arbitration Act, 1940 with such statutory reenactment or modification thereof as shall from time to time be made.

IN WITNESS WHEREOF etc.

AN AGREEMENT made the day of 1948

Between THE GOVERNOR OF BOMBAY of the first part, BAGALKOT CEMENT COMPANY LIMITED a company registered under the Indian Companies Act VII of 1913 and having its registered office in Bombay (hereinafter referred to as "the Company") of the second part, TENDULKAR INDUSTRIES LIMITED a private company registered under the Indian Companies Act VII of 1913 and having its registered office in Bombay (hereinafter referred to as "the Managing Agents Company") of the third part And Dr. A.G. TENDULKAR (hereinafter referred to as "Dr. Tendulkar") of the fourth part

WHEREAS by the Articles of Association of the Company it is inter alia provided that the Company shall enter into an agreement with the Government of Bombay (hereinafter referred to as "the Government") in respect of guarantee of dividends and other matters incidental thereto in terms of the draft agreement therein referred to, being this agreement

AND WHEREAS the Company was registered at Bombay on the day of 1948

NOW THESE PRESENTS WITNESS AND IT IS HEREBY AGREED by and between the parties hereto as follows:-

1. For a period of five years from the date of the first allotment of the shares of the Company the Government shall guarantee ...

guarantee to the ordinary share-holders of the Company a dividend at the rate of 3% per annum on ~~such~~ the ordinary shares held by them and shall pay to the Company on behalf of and as a trustee for ~~its~~ such ordinary share-holders every year such amount as may be necessary to enable the Company to distribute to its ordinary share-holders an yearly dividend at the rate of three per cent per annum on the total subscribed ordinary share capital of the Company not exceeding the face value of Rupees one crore Provided that in no event will the amount payable by the Government to the Company under the said guarantee (hereinafter called "the guarantee amount") exceed the aggregate sum of Rs. 18,00,000/- for the said entire period of ~~two~~ five years And Provided further that the payment by the Government to the Company of the guarantee amount in any year shall be subject to the requisite grant being assented to by the Legislature.

2. The Company shall keep the guarantee amount in a separate account with a Scheduled Bank and shall utilise the same for the payment of the guaranteed dividend to its ordinary share-holders as aforesaid and for no other purpose whatsoever and the Government shall be entitled to the immediate return of any sum not required or remaining ~~unutilised~~ unapplied for or towards the payment of the guaranteed dividend as aforesaid.

3. The Company agrees to refund to the Government the guarantee amount out of the surplus distributable profits of the Company within a period of five years from the last payment by the Government towards the guarantee amount and such further extended period or periods

as ...

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as may be mutually agreed upon between the Government and the Company.

4. In consideration of the premises the Government shall be entitled to participate in the profits of the Company for a period of five years from the date of the last payment by the Company to the Government towards the refund of the guarantee amount as sanctioned by the Legislature and such participation shall be to the extent of 25 per cent of the total surplus distributable profits remaining after paying a dividend of 6 per cent to the shareholders of the Company or to the extent of interest at the rate of 3½ per cent per annum on the guarantee amount refunded to the Government, whichever of the two amounts is greater.

5. In consideration of the premises, until the guarantee amount is repaid in full by the Company to the Government the Company agrees and undertakes as follows:-

(a) That no part of the share capital of the Company will be offered to the public for subscription until after a minimum nominal share capital of Rs.40 lakhs is subscribe for and/or underwritten.

(b) That no dividend higher than 3% will be declared to the Company's shareholders without the previous sanction of the Govt

(c) That the Government will be entitled to nominate three Directors (not removable by rotation) out of the twelve Directors on the Board of Directors of the Company

(d) That no alterations, variation or modification in the Memorandum and Articles of Association of the Company and in the terms of the Managing Agency Agreement with the Managing Agents Company will be made without the previous approval thereof in writing of the Government.

(e) That after the finance of Rs. 1 crore has been raised, whether by the issue of ordinary shares and/or debentures the Company will not issue any debentures or contract any loans or exercise its borrowing powers under Article 161 of the Articles of Association of the Company unless it has obtained the previous sanction in writing of the Government.

(f) That the Company shall not at any time issue preference shares without the express sanction of the Government in that behalf.

(g) That the Company shall confine its business activities to mining of Lime Stone, clay and gypsum and manufacture of cements and sale of the said commodities, either in a raw or finished state, and matters incidental thereto, and shall not without the previous sanction of the Government carry on any other business.

(h) That the Company shall furnish to the Secretary to the Finance Department, Government of Bombay, or as may be otherwise required by the Government a true copies of all

resolutions ...

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resolutions passed either by the Board of Directors of the Company or by the shareholders of the Company within 15 days from the passing of such resolutions by the Board of the shareholders, as the case may be.

(i) That the Company shall not without the previous consent in writing of the Government exercise its powers under Article 13 of the Articles of Association of the Company to reduce or increase the number of Directors of the Company.

6. The Directors nominated by the Government shall have a right of appeal to the Government against any decision of the Board vote against by them at any Board meeting which resolution in their opinion may affect the financial interest of the Government. Such appeal shall be presented to the Secretary to Government, Finance Department through the President of the Board of Directors who may also represent the views of the Board to the Government on such a resolution. The decision of the Government on such appeal shall be binding on the Board of Directors. The Government nominees shall present their appeal in writing to the President within two weeks of the Board taking any such decision and the Government should take a decision on the appeal within one month of the receipt of such appeal from the President together with the Board's views, if any.

7. During the continuance of this agreement the Government shall be entitled to get the accounts of the Company audited by its own Auditors and such Auditors shall have the same rights and privileges

as the Auditors appointed by the Company.

8. In consideration of the premises, the Managing Agents Comp__. and Dr. Tendulkar do hereby agree that during the continuance of these presents the Managing Agents Company shall not without the previous consent in writing of the Government exercise their right to resign and/or assign their Office as Managing Agents of the Company and/or assign their remuneration as such Managing A_ents and that Dr. Tendulkar shall hold and continue to hold either in his own name or jointly with Mrs. Indumati Tendulkar at least 51 per cent of the issued share capital of the Managing Agents Company for the time being and shall not without the previous consent in writing of the Government transfer the shares so held by him.

9. This agreement shall remain in force until the entire guarantee amount is refunded to the Government and for ~~a~~ the period ~~of~~ for which the Government shall be entitled to participate in the profits of the Company in terms of the clause 4 hereof. ~~five years from the date of the last payment towards such~~ refund.

IN WITNESS etc.

GOVERNOR OF BOMBAY & Ors.

Draft

A G R E E M E N T.

Dated this day of 1948.

M/S. Kanga & Co.,
Attorneys-at-Law.

R.1.1687/21+148 Cement Industry Tandulkar's scheme at Bagalkot -

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Legal Department. 29

The drafts of (1) Memorandum of Association (2) Articles of Association (3) Managing Agency Agreement (4) Guarantee Agreement and (5) Option Agreement were settled (as altered in ~~with~~ ink) in a meeting between the Solicitor to Government, Special Officer (Mr. Nadkarni) and the Company's Solicitor.

Finance Department's attention is invited to the provisions of the Guarantee Agreement and the Option Agreement particularly, as it was considered necessary to depart from certain decisions recorded in Finance Department notes.

Before the drafts are finally approved it will be necessary to fill in the following blanks:-

Articles of Association -	p.3 -	(Art.3) Name of the person who will initial the draft Agreements on behalf of Government.
	p.34 -	(Art.122) Names of Government Directors
Option Agreement	p.2	Period of Agreement equivalent to average normal life of a plant.
	p.4	Rate of ground rent per ton.

o/c BN 22/10
Solicitor to Government.

U.R. to F.D., No. 563-Cmfl dated the 23rd October 1948.

Issued BKC 23/10

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Submitted after visit
File in Agn Misc 148

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